

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE MIDDLE DISTRICT OF ALABAMA**  
**NORTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CECILIO PACACHE,

Defendant.

Case Number: 2:06-cr-00169-WKW-SRW-1

**DEFENDANT PALACHE'S  
SENTENCING MEMORANDUM**

Defendant Cecilio Palache submits this sentencing memorandum in support of his sentencing which is scheduled for September 10, 2008 at 2:15 p.m. On April 28, 2008, Mr. Palache plead guilty to Count I, Conspiracy to Possess with Intent to Distribute and Distribute a Controlled Substance, 21 USC 846. Counsel is in receipt of the pre-sentence investigation report prepared by P. Douglas Mathis, Jr., of the U.S. Probation Department. The recommended, advisory guidelines are 70 to 87 months, based on a guideline computation which found a Total Offense Level of 27 and a Criminal History Category of I. The U.S. Probation Officer found that Mr. Palache qualifies for the Safety Valve pursuant to U.S.S.G. § 5C1.2 and 18 U.S.C. § 3553(f). The government has moved for a downward departure of five levels pursuant to U.S.S.G. § 5K1.1 and 18 U.S.C. § 3E1.1(b). Thereby creating a **Total Offense Level of 25**. The government is recommending a sentence of 57 to 71 months imprisonment as a result of Mr. Palache's substantial assistance. Defendant believes that based on his menial role in the conspiracy, acting as a "trusted messenger" or "lackey", the circumstances of this case, the significant cooperation provided by him, and the fact that this is his first offense, that the appropriate sentence should be below 57 months.

On January 12, 2005, the United States Supreme Court held that the mandatory imposition of federal sentencing guidelines is unconstitutional and directed the courts to consider all of the directives set forth in Sect 18 U.S.C. 3553(a)(2). See United States v. Booker, 543 U.S. 220, 125 S Ct. 738, 160 L Ed. 2d 621 (2005). While the guidelines are advisory, the Court must still consider the guideline range when imposing a sentence, the defendant believes that there are significant reasons to sentence him at the low end or below the advisory sentencing guideline range.

18 U.S.C. 3553(a) requires this Honorable Court to “impose a sentence sufficient, but not greater than necessary” to comply with the purposes set forth in paragraph 2. Section 3553(a)(2) states that such purposes are:

- (A) to reflect the seriousness of the offense, to promote respect for the law and to provide just punishment for the offense;
- (B) to afford adequate deterrence to criminal conduct;
- (C) to protect the public from further crimes of the defendant; and
- (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.

Section 3553(a) further directs sentencing courts to consider (1) the nature and circumstances of the offense and the history and character of the defendant; (3) the kinds of sentences available; and (7) the need to provide restitution to any victims of the offense.

Letters from family members and Mr. Palache’s employer are attached as exhibit “A” to demonstrate the family and community support that Mr. Palache has, and will continue to have. A common thread in all these letters is that Cecilio Palache has a great love of family and that he has “shown much remorse and maturity.” In analyzing the nature and circumstances of the offense: Mr. Palache had a menial role in the conspiracy, acting as a “trusted messenger” or “lackey.” Furthermore, this is Mr. Palache’s first offense. Mr. Palache has a detailed and honorable work history, notably he has been employed full time since 2001 as a truck driver/delivery person. Mr. Palache did use cocaine and methamphetamine during the period surrounding this offense. However, since this regrettable period of time in his life, Mr. Palache has been clean and sober.

The government has moved this Court, based on the defendant’s substantial assistance to depart from the sentencing range determined by the Probation Department, and impose a sentence within the range of 57 to 71 months incarceration. The defendant respectfully urges at a minimum, that the government’s recommendation be accepted. Mr. Palache has fully cooperated with the government, met with agents to explain his role and involvement in criminal activity, identified other criminal activity, and agreed to cooperate and testify at trial.

A departure sentence would still reflect the seriousness of this crime because the guideline sentence is substantial due to the nature of the drug, a fact that has not been overlooked by the U.S. Sentencing Commission. A sentence below 57 months would more than adequately address the seriousness of this crime, and would show this Court’s appreciation for what this Defendant

has done and what he is willing to do. Imposing a punitive sentence does not automatically equate to “respect for the law”, while a just sentence does accomplish that.

Mr. Palache is not aware of any pertinent policy statement that this Court should consider when imposing the sentence in this matter. However, it has been the policy of the government, which the courts have followed, to accommodate those defendants who cooperate following their arrests thereby aiding the government not only in solidifying its case, avoiding the time and expense of a trial, and assisting the government in identifying other criminal activity. Mr. Palache violated the law and should be punished, but the Court must also take into consideration all of these other circumstances.

For the reasons stated herein, Mr. Palache respectfully requests that this Honorable Court grant the government’s request for a downward departure pursuant to 5K1.1 and 3E1.1(a) of the sentencing guidelines and impose a sentence below 57 months.

RESPECTFULLY SUBMITTED THIS 4<sup>TH</sup> DAY OF SEPTEMBER 2008.

/s/ Phach T. Ngo  
PHACH T. NGO  
Attorney for Mr. Cecilio Palache  
Law Offices of NGO & ASSOCIATES, APLC  
3200 Wilshire Blvd., Suite 690-NT  
Los Angeles, CA 90010  
Tel: (213) 385-6300  
Fax: (213) 385-3533  
Email: pngo@lawyer.com

July 25, 2008

Your Honor,

My name is Socorro Lopez Palache, wife of Cecilio Palache. I am writing to you in the hope that you will be compassionate with your sentencing of my husband. Please allow me to take a moment and tell you a little about my family.

Cecilio and I met six years ago in October of 2002. Cecilio is a good friend of one of my cousins, and during a family get-together, our eyes met, and we began to date. As a former battered wife, I was hesitant to begin dating someone again, but Cecilio showed me that not every man is the same. My ex-husband had treated me so badly, that I believed that I wasn't worth anything. My ex never helped me at home; he never played with our children, he had us all prisoners in our own home. Aside from that, he had me believing that my life would always be that miserable; that no matter what I did, or who I was with, my life would always be bad. That's why when I met Cecilio, I was very cautious about beginning a relationship; but he has shown me what real love is supposed to be.

On September 22, 2007, Cecilio and I finally decided to get married. My boys were so excited to have a real father in their lives. I have three children from my disgruntled marriage, who had been longing for someone to call 'Daddy'. Cecilio has known of my three sons from day one, and has always treated them as if they were his own children. My little one went to school one day soon after the wedding and told all of his teachers and friends "Hey guys! Guess what! I finally have a Daddy!" My heart was so full; it felt like it could burst from happiness.

My oldest son, Louie, was nine years old at the time we escaped from my first husband, and he remembers the terrible moments in our lives. To my surprise, Louie opened up to Cecilio when he and I first got together. It seems that Louie, even at a young age, could tell whether a person was treating me right, and because of this, he immediately took to my husband. Louie and my husband have a really good 'Father-Son' relationship, and being that Louie is now seventeen years old, he always looks to Cecilio for advice. I couldn't ask for a better man.

My middle son, Tony, who is thirteen now, is the most attached to my husband. Tony is my little rebel, a skater with long hair, your average teenager, trying to be older than he really is. But deep down, Tony is still a little boy who needs his Daddy. Sometimes I have trouble getting him to listen to me as his mother, but Tony listens to Cecilio even though he knows he is not his natural father. They too have a bond that only a father and son can have, which makes me happy knowing that my husband can guide him into manhood the way he should go.

My husband is everything that my ex was not. I had no idea that a man could be so loving and helpful. He is my equal, not my superior. Cecilio is my best friend; without him, my life

would be so mundane. Sometimes he surprises me with flowers for no reason; he takes me on spontaneous dates, and treats me right. He loves my children, he provides for all of us. He recognizes the value of a hard day's work; he never misses a day of work unless it's absolutely necessary. It takes a real man to put in a full day's work, come home and help his wife with house chores, and still have the energy to help the kids with their homework. Cecilio does all of that with a smile on his face and love in his heart.

Your Honor, I implore you to open your heart for my family. My children and I needlessly suffered at the hands of a violent man during my first marriage. By the grace of God, He brought Cecilio into our lives and gave us the opportunity to have a real family. I understand that Cecilio broke the law by unknowingly becoming involved with the wrong people. This is Cecilio's first offense; he has never knowingly broken the law, he thought he was just doing a favor for a friend. However, I wholeheartedly believe that the law is just, and I know that the court system will not tread on my family. It is with a heavy heart that I put my husband's future in your hands; but I hope that my short letter has touched your heart. I realize that my husband must do time for his actions, yet I trust in your compassion to allow him to be close to his family.

Sincerely,

A handwritten signature in cursive script, reading "Socorro Palache". The signature is written in dark ink and is positioned below the word "Sincerely,".

Socorro Lopez Palache



Page 1

DEAR: JUDGE;

Hello, My name is Antonio Bautista I am 12 years old. I am the middle son of Socorro and Cecilio Palache. When I was growing up I don't remember ever having a father around because I was only about 3 1/2 years old when my mom and dad got divorced. I don't remember much because I was too small. All I can remember is that my real dad used to drink a lot and make my mom cry and sad. I was also sad to see my mom cry that is why I was glad when they got divorced. A few years later my mom met Cecilio. They became boyfriend and girlfriend. Then after they got married I was very happy to finally have a real dad. I never had a dad around. ~~But now~~ my dad Cecilio is great to us. He always takes us places and buys us things we need. I look up to him because he makes my family complete and happy. → Look in back

P.S.

Page 2

So please don't take my  
dad away from us. I don't  
want to grow up without  
him.

Sincerely:

~~antonio~~  
Bautista

P.S. My birthday is on december  
13 and I don't want my dad  
Cecilio to miss it ↓↓↓

Dear Judge,

Hello my name is Jose Bautista. I'm 17 years old and I'm the oldest ~~the~~ son of Socorro and Cecilio. My brothers are Antonio Bautista and Ismael Bautista. Antonio is 12 and Ismael is 9. These are my two brothers. I just want to let you know that Cecilio Palache isn't my real dad, but me and my two brothers see and look up to him as if we were his. In our eyes he is our Dad. Growing up I didn't have a dad. My real dad was a jerk. He got into drinking and would drink a lot. He would turn aggressive and let out his anger on my mom (Socorro). He would always hit her and for 13 years my mom stood with him. So me and my brothers would have someone to call dad. We were so afraid of him. Finally my mom left him and we were left without a dad. When my mom left him I was 10 years old. My brother Antonio was just about to be 4 years old and Ismael was a year and 6 months. So we were on our own without a dad. A few years later my mom met



Cecilo Palache. They became boyfriend and girlfriend for a while and after a long time dating they married. ~~was~~ They been together for about 6 years. He has made my mom's life so much better. He puts a smile on her face and makes the whole family happy. In our family he plays a big row. He's a big row because for my two brothers they really look up to him as a real dad and for me who didn't have a dad, I look up to him as if he was my real dad. Cecilo Palache married my mom knowing she already had 3 kids. To me that's a big responsibility to do that and I thank him because we finally have a dad to look up to. Honestly if it wasn't for him I don't think we would be living in this little but cozy apartment because my mom pays a lot of bills and hardly has any money left. Cecilo helps out my mom on paying bills and taking the whole family out to eat or just to have a fun night out. Judge I'm asking for a favor. I really hope you can help me out in this favor. I didn't have a dad growing up but in my brothers eyes Cecilo Palache is there.

I don't want them to go thru the pain I went thru with out a dad. It hurts and to this day I'm hoping you don't take a good man that's done so much for this little family away. He's a real great guy ~~once~~ you get to know him. He looks out for us and is always protecting us when ~~we~~ we need it. So please Judge don't take away the best thing that has happen to this family. It's going to devastate my mom and cause her so much more pain in her life because she really loves him and he really loves her and all of us. It's really going to crush me inside and out to lose ~~to~~ two dads in one life. And my two brothers who really, really look up to him as there dad.

SO Please, Please don't TAKE AWAY OUR DAD. :("

Sincerely,

Jose Buitrago

Dear Judge,

My name is Ismael Bautista

I was about four years old when I met Cecilio. To me he is my dad because he's always there for us. He always buys us things we need and takes good care of me my brothers and my mom. My dad is great at sports. I have learned a lot. He has been my football and baseball coach and I want him to be always with me at my games. He makes me and my mom and my brothers

(2)

laugh all the times when were at  
~~there~~ the games. We always have  
lots of fun. He is the only  
dad I know I love him  
very much and I want  
him to always be with  
us.

Your friend,  
Ismael Bautista

**CERTIFICATE OF SERVICE**

I hereby certify that on September 6, 2008, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

A. Clark Morris  
Assistant U.S. Attorney  
PO Box 197  
Montgomery, AL 36101

DONE THIS 6<sup>th</sup> DAY OF SEPTEMBER, 2008.

/s/ Phach T. Ngo  
PHACH T. NGO  
Attorney for Mr. Cecilio Palache